

17

EXTRACTS FROM MINUTES.

ROOMS OF THE JEFFERSON DEMOCRATIC ASSOCIATION, }
YORK, PA., August 21, 1883. }

At a meeting of the Association held this evening, the death of our late distinguished fellow member, the HON. JEREMIAH S. BLACK, was announced. The irreparable loss sustained by the Association, the community and the nation, in the death of the great departed, was feelingly and eloquently referred to in addresses by different members of the Association, after which a motion was made to request the Hon. Levi Maish to prepare and deliver to the Association, such an eulogy of the deceased as would commemorate in a fitting manner the memory of the deceased's eminent ability as a jurist, his services as a statesman, his broad intellect and high and lofty character. The motion was unanimously adopted and the Hon. Levi Maish allowed to use his own judgment as to the time of the delivery of such eulogy.

In determining a date for the delivery of the eulogy it was deemed advisable to suggest to Col. Maish the propriety of selecting the day of the first anniversary of Judge Black's death, which suggestion was concurred in, and the Committee then decided to select the evening of that day or of a day as near it as practicable, as the most appropriate occasion for the event.

Subsequent to this action of the Association, a committee consisting of Edward Stuck, Dr. M. J. McKinnon, and L. H. Greenewald was appointed to arrange with Col. Maish for the delivery of his eulogy, and Monday evening, August 25, 1884, was the time fixed and the Court House the place selected.

The Court Room on this occasion was filled with a large and intelligent audience to listen to Col. Maish, which assemblage expressed the greatest satisfaction with the manner in which his task was performed.

CORRESPONDENCE

THE COMMITTEE'S REQUEST.

YORK, PA., August 26, 1884.

COL. LEVI MAISH :—*Dear Sir* :—The undersigned Committee, representing the Jefferson Democratic Association of the borough of York, in making arrangements for the delivery of your lecture of last night upon the life and character of the late distinguished Judge Jeremiah S. Black, feel that they would be failing in their duty to the Association and to the community at large, did they not ask of you a copy of your most excellent production for publication, in such manner as the Association may hereafter determine.

Not only have many of the eminent gentlemen who listened to your eloquent and beautiful portrayal of this great jurist and statesman's life, by you last night, expressed a desire to see in print your glowing testimonial to the honored dead, but many who were unable to be present, have also expressed a desire to have the pleasure of reading that which they were deprived of hearing.

With the earnest hope that you will accede to our desire, we most respectfully request of you a copy of the eulogy at an early day as suits your pleasure.

Very Respectfully Yours,

EDW'D STUCK,
M. J. McKINNON, } *Committee.*
L. H. GRENEWALD, }

COL. MAISH'S REPLY.

YORK, PENN'A, August 27, 1884.

GENTLEMEN :—I am in receipt of your favor of yesterday, soliciting the manuscript of the address I delivered on Monday evening last, upon the life and character of the late Judge Black.

If in the opinion of the members of the Association the address merits the wider field they propose for it, I cannot with any just reason refuse your request. The manuscript is, therefore, given to you with pleasure.

Thanking you for the flattering terms in which your request was conveyed to me, I am with great respect and esteem,

Your Obedient Servant,
LEVI MAISH.

THE ADDRESS.

Gentlemen of the Jefferson Democratic Association, and Ladies and Gentlemen:

A year ago we consigned to the grave all that was mortal of Jeremiah Sullivan Black. Time assuages grief and death softens the asperities of the human heart. Those of us, therefore, who deeply venerated the man, and were bound to him by ties of the warmest affection, may now be able to take a more deliberate view of his services and estimate with greater calmness the value of his life, whilst those whom party prejudice, or personal hostility, had blinded to his virtues, will be inclined to turn a more friendly ear to his claims to renown.

The task you have imposed on me, to do full justice to the great theme, demands abilities almost equal to those possessed by him whose character I am asked to portray.

In justice to myself, therefore, I should perhaps have declined your invitation. I remembered, however, that in this case the requisite qualifications would be hard to find, and I thought if I cannot rise to the full height of my subject, I can at least faithfully give you the view I am enabled to take. This I will try to do.

My aim will be to present to you a study of Judge Black's character; as-

certain, if possible, the value of his services, and his claim to greatness. It will not, therefore, be my province to give a minute narrative of his life. I will advert only to such events in it as I may find necessary to accomplish my purpose.

He was born in Somerset county, Pennsylvania, January 10, 1810.

After receiving a fair education at an academy, and undergoing the usual preliminary studies in a law office, he entered the legal profession before he reached the age of twenty-one. He was soon afterward appointed deputy attorney general of his county. He immediately displayed remarkable talents for his profession, rapidly rose to distinction, and early secured a large and lucrative practice. In 1842, at the age of thirty-two, he was appointed by the executive of the State a Judge of the Court of Common Pleas. He administered the laws with great ability and satisfaction to the profession and people of his circuit. His reputation as a lawyer and jurist soon became as wide as the commonwealth, and in 1850, he was one of the Justices of the Supreme Court, elected under the elective judiciary, then first established in this State. By lot he drew the shortest term provided by the Act of Assembly, under which he

was elected, and as a consequence became the Chief Justice of the State, at the age of forty, having been commissioned on the first Monday of December, 1851. At the expiration of three years, the length of the short term, he was re-elected an associate Justice of the Supreme Court, the other candidates of his party at the same time being defeated by large majorities. He continued to serve on the bench of the Supreme Court until the 11th day of March, 1857, when he resigned his office to accept the position of Attorney General of the United States, tendered him by President Buchanan. He filled this office for three years and eight months, when he succeeded Gen. Lewis Cass as Secretary of State, of the United States. This office he filled to the close of Mr. Buchanan's administration. He remained in private life until November 12, 1872, when he became a member of the convention assembled to frame a new constitution for this State, as a delegate at large, but resigned from that body before it had ended its labors. He was fifteen years a Judge on the bench in Pennsylvania, four years a member of Mr. Buchanan's cabinet, and eleven months a member of the Constitutional Convention.

In all these positions Judge Black displayed extraordinary abilities, great industry, and a conscientious discharge of duty. They were all fairly thrust upon him; for he never sought an office, and he was utterly ignorant of the ordinary arts of the politician.

Every performance of Judge Black bears the impress of his wonderful mind. His judicial opinions, therefore, are powerful expositions of the law discussed in them. They are written

withal in language so cogent, clear and elegant that they will always be regarded as among the finest models of English composition. This remarkable gift was early developed in Judge Black. It was indeed a gift of the highest order, and in no sense an acquirement, for his opportunities in early life were limited. But he read much and was familiar with almost the entire field of English literature. He was also well versed in the Latin classics and Virgil and Horace he knew almost entirely by heart. He cultivated assiduously Shakespeare, Milton, and the Bible, "that well of English undefiled;" but his engrossing professional pursuits did not allow him to devote much time to the study and practice of the arts of composition. Then whence this marvelous perfection of style? It was the creation of his native genius. High literary excellence is distinctively the mark of a great intellect. Men of great ability in the field of literature do not always possess it, but those who do in a high degree are always found among the great geniuses of the race.

Shakespeare, Milton, Burke, and Webster, in our own language, and the great masters of Greece and Rome fully attest this truth. Measured by this standard, Judge Black has had no superiors and few equals.

His words were the exact reflex of his thoughts, and as he thought vigorously, and reasoned methodically and logically, his style is possessed of all the attributes of clearness, force and cogency. His periods are likewise distinguished for their fluency, grace, and an uncommon felicity of expression. Simplicity, directness and vigor, are his predominating qualities.

Possessing great resources, a most retentive memory, and a vast storehouse of information, and curious learning, his compositions are full of rich, varied, and original illustrations. The mere ornaments of style he seldom sought after. Figures of speech, however, are often met with, and these are always striking for their adaptation to the subject and their originality. He did not strive after them—you are at once aware that they naturally rise out of the subject, and came to him unbidden. He was particularly happy in the use of quotations. He never travels out of his way for them, but they drop in their places as naturally as a necessary part of a mosaic.

His opinions are contained in twelve volumes of our law reports, beginning with 5th Harris and ending with 4th Casey. In them he has discussed the law in all its branches.

Some of the cases in which Judge Black took a conspicuous part, and which became important by reason of the principles involved in them, may with profit be referred to.

It is an interesting fact that the first case in which Judge Black delivered the opinion whilst on the Supreme Bench of this State, was in favor of the constitutionality of our common school laws.

The case through which perhaps Judge Black first became widely known to the profession of the country, is the case of Sharpless against the Mayor of Philadelphia. This case arose out of a proceeding to restrain the municipal authorities of Philadelphia from imposing taxes to pay certain railroad stocks, subscribed to by the city, in pursuance of laws enacted for that purpose. It was contended that

this legislation was in conflict with the constitution of our State. This position was urged with great force and ability. The laws, however, were sustained, and Judge Black delivered the opinion of the Court. The opinion contains an elaborate discussion of the rules governing the construction of constitutional law, State and National and the powers of municipal corporations to levy taxes to promote public improvements. The conclusions arrived at by the Court, were presented with such ability and power as to attract general attention in the profession, and it gave Judge Black a very high rank among the jurists of the country. The case, though the point decided has been superceded by constitutional amendment in this State, has become a leading one upon this subject, and consequently is found and discussed in all the leading treatises that make any pretension to an exposition of the principles involved in it.

In the case of McDowell and Oyer, he delivered, what Judge Woodward called, "a solemn and impressive exposition of the maxim of *stare decisis*." I am sure the doctrine was never more ably presented, and this case is a striking example of its rigid application. The Supreme Court had in the case of Jack and McKee unanimously decided "that," to use Judge Black's words, "one who gives his personal services on a contract to be paid in land is entitled, if he does not get the land to get its value," and that such measure of damages was not prohibited by our statute of frauds. There was a wide diversity of opinion in the profession as to the correctness of this principle of law, and two able and eminent Judges, Woodward

and Lowrie, refused to give their assent to it, and finally, in the case of *Hertzog vs Hertzog's administrators*, succeeded in overruling the former cases. Judge Black and his associates who agreed with him, had left the bench, and Judges Lowrie and Woodward remained members of the Court long enough to settle the controverted question in accordance with their views. I doubt whether any cases in our reports have been discussed with greater learning and ability from the bench than those I have referred to, and to the student of law they will ever form a most interesting and instructive subject of study. There will always be a diversity of opinion respecting the merits of the question; but I think I am safe in saying that a majority of the profession will agree that it was much easier to overrule the case of *McDowell and Oyer* than to answer the powerful argument of Judge Black.

In the second case of *Hole and Rittenhouse* a long line of decisions was overruled, and, in a dissenting opinion, Judge Black points out with indignant energy the evils of a vacillating judiciary. "The rules," said he, "which establish the title to a man's real estate should be as firm as the mountain, not as unstable as the waves."

Many other cases might be selected which gained an importance beyond the confines of the State, on account of the able and masterly manner in which the principles of law arising out of them were presented by Judge Black. I think enough have been mentioned to show the high eminence he attained as a wise and able Judge, whilst a member of the Su-

preme Court of this State. His reputation was then already largely due to the extraordinary style of his composition.

The arena in which we now find him is the cabinet of Mr. Buchanan. Here as everywhere his transcendent genius asserted itself, and that high office was never more worthily and ably filled. He brought to the performance of his duties vast learning, and great experience. He had already firmly established his reputation as an eminent jurist, and he soon proved himself to be a powerful advocate.— He conducted the cases before the Supreme Court on behalf of the United States with consummate ability. He performed services during his term of office which, had they not been overshadowed by the civil war, would have attracted universal attention; for they were, considering the enormous interests involved and the prodigious difficulties encountered, the greatest professional triumphs of which we have any account.

Under the treaty by which the State of California was ceded to the United States the validity of certain claims to land was recognized. This gave rise to a conspiracy to swindle the government and the inhabitants of California out of many millions of acres of land. The enormity of the steal was excelled only by the great "land grabs" of the Pacific Railroads. The plots embraced parts of San Francisco, Sacramento and other large cities. They were most skillfully conceived and boldly maintained.— They passed through the successive ordeals of the Courts of California, without being defeated, and they came to the Supreme Court of the

United States whilst Judge Black was Attorney General. He devoted an amount of labor to the exposure and frustration of these frauds that was almost superhuman; for the cases were prosecuted with a pernicious energy and activity. He met them with unconquerable courage and perseverance. By means altogether novel, he established the genuine titles of the settlers, and the government. He thus wrested from the grasp of fraud, and restored to the rightful owners, an amount of land estimated to have been worth \$150,000,000, and mercilessly scourged the baffled swindlers for ever from the temple of Justice. The surpassing skill and ability displayed by Judge Black in the conduct of these cases, was the theme and wonder of the profession at home and abroad. After his retirement from office he was retained in numerous cases from the State of California, arising out of these fraudulent titles. Here began that brilliant and successful professional career with which the whole country is now familiar. I do not mean successful in that it was very lucrative, for that it was not: though he did perhaps, in several cases receive the largest fees ever paid for legal services. Lawyers are numerous in this country, not known beyond the locality of their practice who have accumulated larger fortunes by their profession. The reason was that the instinct of money making had no lodgement in the breast of Judge Black. He was mercenary in nothing.

He however, was successful, pre-eminently successful, in all that pertains to the higher aims of the profession; the maintenance of right and justice, and an honorable name as a lawyer.

He filled the offices of Attorney General and Secretary of State at a time the most perilous in the history of our country. The dark clouds of civil war were raising their awful crests above the horizon. He, with his associates, held in their hands the destiny of the great Republic. It was "a time that tried men's souls." How did Judge Black meet the "impending crisis?" Impartial history has at last answered this question. Enduring for a score of years the obloquy of partisan misrepresentation he lived to see his devotion to the cause of the country completely vindicated, and those who were busiest in disseminating the falsehood are now found the most active in advancing the truth of history. If there were any whose excessive loyalty had still wedded them to the error, the attack upon Judge Black by the Chief of the Confederacy, I doubt not quickly frightened them into propriety. Some conspicuous authors I apprehend, will speedily have to set about revising their productions, else they will run the risk of having their books discredited as unfaithful chronicles of events. The ablest production cannot outlive that.

No! Like Jeremiah of old days Judge Black "held not his peace" for he heard "the sound of the trumpet, the alarm of war." He was foremost among our public men of both parties in urging vigorous measures to stay the coming storm. In an opinion to the President he made use of these memorable words: "The Union is necessarily perpetual. No State can lawfully withdraw or be expelled from it. The Federal Constitution is as much a part of the Constitution of

every State as if it had been textually inserted therein. The Federal Government is sovereign within its own sphere, and acts directly upon the individual citizens of every State.— Within these limits its coercive power is ample to defend itself, its laws and its property. It can suppress insurrection, fight battles, conquer armies, disperse hostile combinations, and punish any or all of its enemies. It can meet, repel, and subdue all those, who rise against it.”

His “memorandum for the President on the subject of the paper drawn up by him in reply to the Commissioners of South Carolina,” is even more emphatic in maintaining the supremacy of the Union, and his letter of January 16, 1861, to Gen. Scott, removed the question from all doubt.* In it he urged the immediate reinforcement of Major Anderson, and showed so plainly the way to do it that it is surprising it did not have the immediate effect to arouse the General of the Army to energetic action. With records left behind like these, the fidelity of Judge Black to the cause of the Union whilst a member of Mr. Buchanan’s cabinet, can never be successfully assailed. The refutation is found in the annals of his country and in the archives of his Government.

Judge Black retired from public life in March 1861, with clean hands and empty; a virtue too rarely found among public men. He was then only fifty-one. Signal as have been his public services the work he did as a private citizen will always outshine

them. The professional politician acquires distinction by the office he holds. When he is deprived of its robes he relapses into the obscurity from which he was temporarily raised. Not so with him who gains prominence by eminent abilities. He rises superior to office, and reflects honor upon it, instead of being elevated by it. So it was with Judge Black, and hence private life did not remove him from public action.

He soon became publicly identified with a number of notable law suits. I will simply mention those which acquired a public importance on account of the great principles they involved. These are the Blyew case, the Mc-Ardle case, and the Milligan case: all cases before the Supreme Court of the United States, and in all of them Judge Black appeared as the leading counsel against the government. They all involved the constitutionality of Acts of Congress, and affected directly the personal liberty of the parties from whom the cases derive their names. The first one arose under the civil rights bill. Blyew was indicted, tried, and sentenced to death, in the Federal Courts in the State of Kentucky. The jurisdiction of the Federal Courts was contested on the ground that the civil rights bill conferring such power upon them was a violation of the Constitution of the United States. Judge Black argued the case before the Supreme Court. The case was decided in favor of the prisoner, but the Court avoided passing upon the validity of the Civil Rights Bill. Judge Black, however, in this case, delivered an argument which is described by a distinguished Senator of the United

*Maj. Gen. S. W. Crawford discovered several years ago that this letter was on file in the Adjutant General’s office, at Washington.

It was then already manifest that the whole case had been predetermined against the Democrats, and it was with great difficulty that counsel could be induced to appear before them.— In this extremity Judge Black was solicited to aid in the argument. He declined to give an affirmative answer, but on the following morning, after the case had proceeded for a short time, he made his appearance and indicated his willingness to assist in the trial. The address is well known to the country, but the manner of its delivery is known only by those who were privileged to hear it. I did not hear it myself, but it was described to me by one who did, on the same day it was delivered. I believe that this speech was almost entirely impromptu. It was not possible for him to have bestowed much preparation upon it, and this only can account for its bold audacity, and its sudden transitions of thought. As he delivered it he plainly showed in every action that he labored under deep emotions. He would, by turns, step up before the Commissioners and thrust his withering invective straight into their faces, and that too with gestures quite as irritating as his words. When he thought he had reached the utmost limit of forbearance, he would suddenly turn upon the counsel of the other side, and hurl his terrible anathemas at them. In this manner he turned from one to the other until he had finished his speech. This address will stand as a bright luminary in the midst of the dark deeds of that foul conspiracy, the light of which will reveal to future generations the hideous crimes by means of which the usurpation of the Presidency was consummated; and the ominous words

“Justice travels with a leaden heel, but strikes with an iron hand,” will sound down through the ages a dreadful warning to conspirators who are tempted to trifle with the liberties of the people.

If Jefferson has won the title of the great apostle of liberty, and Webster that of the great expounder of the Constitution, then Jeremiah Sullivan Black has fairly earned the right to be called the great *tribune of the people*

The persistent defiance by the railroad corporations of this State of our present constitution, and the failure of the legislature to enact appropriate laws to compel its observance, was a subject of serious concern to Judge Black. Almost alone he espoused the cause of the people against the combined power of the monopolists. In a speech delivered before the Judiciary Committee of the State Senate, he presented an overwhelming arraignment against these corporations. He was met by insinuations which called forth the following manly reply:

“The charge that I am communist enough to wish the destruction of all corporate property, is equally untrue. I think myself the most conservative of citizens. I believe with my whole heart in the rights of life, liberty and property, and if anybody has struggled more faithfully, through good report and evil, to maintain them inviolate, I do not know who it is. I respect the State Constitution; perhaps I am prejudiced in favor of natural justice and equality. I am convinced that without the enforcement of the fundamental law honest government cannot be expected.”

Noble words and true: We have here another illustration of Judge Black's devotion to the cause of the people. Alone, without reward or the hope of it, he brought the offending companies before the bar of public opinion, and also opened the eyes of the people to the omissions of our legislature, respecting this subject. At this time Judge Black enunciated a principle that touched the very core of the question. He thus explains it himself:

"Those who run the railroads and canals are always public agents. It is impossible to look at them in any other light, or to conceive how a different relation could exist; because a railroad which is not managed by public agents cannot be a public highway."* He explains further:

"Reasoning fairly from premises known to be true, you cannot escape the conclusion that the extravagant and discriminating charges of these corporations are a fraud upon their own charters, as well as a gross wrong to their victims. The contracts they invoke to save them from the justice of the State are as strong against them as the Constitution itself.

But there is a power of the State to control them, to check their rapacity, and to make them honest, which lies back of all this. The police authority of which she cannot disarm herself if she would, enables her to regulate the use, even of private property, in such manner that neither the general public nor particular individuals can be made to suffer by it unjustly. Upon that principle you can forbid an excessive

rate of interest upon the loan of money, fix the charges of hack-drivers, or ferrymen, or tavern keepers, or the owners of grain elevators.

Besides all that, the State can abolish a monopoly, or bring it to terms of justice, at any time by virtue of her right of eminent domain. All property, corporeal and incorporeal, is held upon condition that it may be divested whenever the general interest requires it. All charters and acts of incorporation are subject to such modification as may be necessary to prevent the owners from doing wrong to the public."

These views attracted wide attention, and excited much discussion.

The railroad corporations of the State have in a great measure usurped the legitimate powers of government. Legislatures have been debauched by them to secure improper privileges, which they stubbornly refuse to surrender; and by such means they claim to have acquired *vested rights* to perpetrate *grievous wrongs*.

Judge Black declared that "by such dereliction of duty on the part of the legislature the little finger" of one of these corporations "has become thicker than the loins of the commonwealth." "What we want," said he "above all things upon the earth is honest legislation; and when I say we *want* it I use the word in the double sense of needing it and lacking it."

How can these abuses be stopped? Judge Black has suggested an efficient remedy.

Let officers of railroad companies be held accountable as agents of the State, removable for cause, amenable to punishment for offences committed

*Under Article XVII, Section 1, of Constitution of Penn'a., "all railroads and canals shall be public highways."

States who heard it, as "The finest combination of law, logic, rhetoric, and eloquence I have ever listened to."*

The McArdle case presented to the Supreme Court, the validity of the Reconstruction Acts. McArdle was held in custody in pursuance of a conviction by a military commission organized under these acts. The case was heard in March 1868, and Judge Black appeared, with other eminent counsel in the case, and delivered a very powerful argument. The impression was that the acts would not be sustained, but before the Court had pronounced judgment in the case, alleged to have been intentionally procrastinated, Congress passed a law ousting the jurisdiction of the Court and superceded its further action thereon. Mr. Justice Grier's memorable protest, concurred in by Mr. Justice Field, will serve several purposes. It will show you the great importance of the case, and also that the arbitrary intervention of Congress did not go unchallenged. Says Justice Grier: "This case was fully argued in the beginning of this month. It is a case that involves the liberty and rights not only of the appellant, but of millions of our fellow citizens. The country and the parties had a right to expect that it would receive the immediate and solemn attention of this Court. By the postponement of the case we shall subject ourselves, whether justly or unjustly, to the imputation that we have evaded the performance of a duty imposed on us by the constitution, and waited for legislation to interpose to supersede our action and relieve us from our responsibility. I am not willing to be

a partaker either of the eulogy or opprobrium that may follow; and I can only say:

*"Pudet haec opprobria nobis

Et dici potuisse, et non potuisse repelli."

The case of Milligan has become historical by reason of the great interests which were at stake, and the important principles established by it. It was a case of life and death. Justice Davis, who delivered the opinion of the Court said of it, that "the importance of the main question presented cannot be overstated; for it involves the very framework of the government and the fundamental principles of American liberty."

In 1864 Milligan was tried before a military commission, convened at the city of Indianapolis, by order of a general of the army, on certain charges and specifications, found guilty, sentenced to be hanged, and the sentence ordered to be executed on Friday, the 19th day of May, 1865. The sentence was approved by the President of the United States, who directed "that it should be executed without delay." Milligan was a private citizen of the State of Indiana and in nowise connected with the military or naval service of the United States. In the State of Indiana at the time, the Courts were open and the administration of the laws undisturbed. There was no rebellion in the State nor invasion of her borders by any armed force. The case came up to the Supreme Court on a writ of *habeas corpus* sued out by Milligan. Judge Black attacked with irresistible power the constitutionality of this proceeding, and his address to the Court in the case was indisputably

*It fills us with shame that these reproaches can be uttered and cannot be repelled.

*Hon. Augustus H. Garland, of Arkansas.

the most remarkable forensic effort ever delivered in this country. For eight hours, we are told, he stood before that august tribunal, delivering his address without a solitary note, or without once reading from a book, and yet he presented such an array of law, fact, and argument, with such resistless force and eloquence, as startled and bewildered those who listened to him. He depicted the consequences of an affirmation of the action of the military commission in terms so graphic as to make the heart recoil from the awful prospect.

Judge Black not only contended for the safety of Milligan, but he did infinitely more than this.—Freedom too was his client. The great cause of Constitutional liberty hung upon that single life. It was decided in favor of Milligan, and in striking the shackles from his limbs the Constitution was vindicated, and the trial of private citizens by military tribunals in States where peace has dominion, was thenceforth interdicted.

Can you doubt that if Milligan had been slain in pursuance of the sentence of that unwarranted commission, our free institutions would ultimately have been subverted? History unerringly teaches us that our liberties could not long survive a broken constitution. A fact to-day becomes a precedent to-morrow, and one invasion of our liberties would soon invite another; and if tamely submitted to, it would become a question of time only when some Napoleon would appear on the scene of action, and by a bold *coup d'état* convert the Presidential chair into an imperial throne.

It is not possible to over estimate the importance of the services of Judge Black in these cases. John Hampden, when he refused to pay the ship money exacted by Charles the First, did no more for the cause of English liberty than Jeremiah S. Black has done for the cause of American liberty in these State trials; and when some Hallam shall come to write the Constitutional History of this country he cannot fail to point out their great importance, and award the justice due to him whose great genius and love of liberty upheld the cause of free government in the perilous times during and immediately succeeding our civil war.

“Thou in this shalt find thy monument,
When tyrant's crests and tombs of brass are
spent.”

Be it said to the great honor of Judge Black also that he did not and would not receive any compensation for his services in these cases, except in the one case where a rich and powerful commonwealth was his client.

He was one of the counsel selected to defend the title of Mr. Tilden to the office of President of the United States, before the Electoral Commission appointed to decide the presidential contest of 1876.

His speech before the Commission in the South Carolina case is the perfection of bold, bitter, and audacious, invective.

The case of that State was the “forlorn hope” of the Tilden cause. A valued and esteemed friend of mine* who presented the objections to the count of the votes of that State before the tribunal, visited Judge Black the night before the case was heard.

*Hon. A. G. Cochran.

that of the Republican party to show a willingness to disregard it. The causes of defeat would have been a matter of mere speculation, and, therefore, it could not have been incontrovertibly ascribed to an opposition to the third term; but the result would have been an ugly rent in the sacred precedent. This above all things Judge Black wanted to avoid. His purpose was to maintain intact the "high injunction." Who now questions the wisdom of his course? He saw in the attempt to seduce the American people to "that foul revolt" a deadly blow aimed at the life of our free institutions. He met the peril of the Republic with the utmost zeal, and it is not claiming too much for him, to say that he defeated the "third term conspiracy." The literature of the controversy will always form an important chapter in our history. When in times to come some ambitious *Cæsar*, by "devilish arts" shall essay to over-ride the two-term rule he will meet at the threshold the bulwark erected by Judge Black.

His defence of the Christian religion is a powerful presentation of the reasons for the faith he cherished. I am entirely safe in saying that infidelity was never assailed with such forcible common sense argumentation. There was a wide diversity of opinion concerning the relative merits of the argument, as there naturally would be in such controversies. The preponderance of public opinion, however, was greatly in favor of Judge Black; perhaps for the reason that the cause he espoused has vastly the greater number of friends. It would also be idle to speculate upon the precise effect of the "high debate," but one thing it seems to me is quite ap-

parent, and that is that infidelity has not carried so bold a front as formerly. For some reason its champions occupy a much narrower space in the public mind than they did several years ago. By many Judge Black will be largely credited with administering the check that turned the tide of scepticism backward. The great orator and statesman William Wilberforce performed a similar service in his day. "Wilberforce's View" and "Judge Black's Defence" will henceforth stand upon the shelves of our libraries as appropriate companions, and they can be pointed to as the testimony of two of the greatest statesmen of the age in which they lived to the truth of Christianity.

Judge Black was a Democrat of the strictest sect. He had an unbounded admiration for the Constitution of our country, and he believed that the fathers who framed it were the wisest and best men that ever lived in the tide of time. A strict construction of the Federal Constitution was a cardinal principle of his political philosophy. By that he meant as he himself explained it, "an honest construction of the written, organic, fundamental law, which all swear to support—such just and fair interpretation of the Constitution as any right minded man would give to any instrument containing a grant of anything, whether it be property, corporate privileges, or political power."

He was a warm admirer of Thomas Jefferson. He had the most exalted opinion of his private virtues, and his political teachings were the catechism of his political faith,—"Jefferson" said he, "the stainless citizen, the sterling patriot, the unequalled statesman, and at once the greatest apostle and the

truest prophet that human freedom ever had."

Judge Black cared little for the abstract principles of political economy; though he was fully abreast with current political questions, and was always in accord with the advanced thinkers in the field of political science. He therefore, favored a hard money currency, and was opposed to all kinds of restrictions upon international commerce, except for purposes of revenue, and regarded them as mere contrivances to enrich the few at the expense of the many. He was not purely a doctrinaire, for his mind was too strongly inclined to the practical side of questions. Yet no one understood better the foundations of the rights of man and the essential principles of liberty. His address on Religious Liberty attests how thoroughly he explored the fountains of human rights, and the cause of distressed Ireland was never put on a higher plane than Judge Black put it in his address at the centenary celebration of Grattan's Declaration of Irish Independence.

He believed in the broadest freedom of the individual. That, he held, was most conducive to the public safety, and at the same time productive of the greatest sum of human happiness. When, during the late war, high-handed invasions of constitutional liberty were justified by the cant phrase of the day that they were necessary "to save the life of the nation," Judge Black demolished the flimsy pretext by a single sentence, and at the same time enunciated a volume of political wisdom. Said he: "*The life of the nation? Why the life of the nation is the freedom of the citizen.*"

The essence of his political creed seems to have been crystalized in these words: "Liberty regulated by law"

The debt we owe to our ancestors we must pay to posterity. Judge Black has more than discharged this obligation. He "bids us do the work he laid down." It is a noble trust. Let us henceforth earnestly dedicate ourselves to it. We honor him best by honoring the principles he taught.

Whether pleading the cause of bleeding Ireland, repelling the assaults upon Religion, or defending the liberties of the citizen, Judge Black always evinced the zeal and candor of honest conviction. He pursued every object he believed in with indefatigable energy and with a courage that stopped at no obstacles.

"Too fond of the right to pursue the expedient," he did nothing by halves. He was, therefore, thought by many to be impracticable. He went straight to the mark, and cared nothing about mere effect. He once closed a dissenting opinion in these words: "But since the majority decide otherwise, the presumption is against the soundness of all my propositions. I am wrong of course. But I choose rather to proclaim my own errors than give my assent to truths of which I am not convinced."

Judge Black possessed a striking figure. Tall and brawny, his was a stalwart frame. Though his features were large and irregular there was something in his look and mien that marked him as a man of superior intellect. Long, thick, shaggy eyebrows, surmounted by a broad, high forehead, his presence was commanding and noble.

as public officers having in charge a public trust, and the day of our deliverance will soon be at hand.

The only deliberative assembly of which Judge Black was a member was the convention that formed the present Constitution of our State. His work in this body was in keeping with the principles of his life. He ever had but one purpose, and that was the maintenance of the rights and liberties of the people. He participated largely in the debates of that body and submitted numerous reforms for the consideration of the convention.

He set forth in a speech soon after the convention met what he imagined to be the needs of the hour, and it will consume only a moment of your time while I present them to you as he himself stated them. They are valuable as illustrating how persistently he pursued the great aim he always had in view. He says:

1. "Confine the power of the legislature within limits as narrow as possible, consistently with a proper regulation of our affairs."

2. "Prescribe certain forms of proceeding which will insure deliberation and publicity."

3. "Define bribery so as to include all forms of corruption."

4. "Extinguish the lobby at once and forever, by making all private solicitation of members by interested parties, or their agents, a criminal offence."

5. "Make all fraudulent acts of the legislature void."

6. "Swear or affirm every member before he takes his seat that he will not only support, but obey and defend the Constitution in all things."

7. "Require every member at the

close of his last session to render an account of his stewardship to his own constituents at home."

In explanation of the last proposition he says: "Make him swear or affirm, specifically that he has obeyed the Constitution, that he has not listened to private solicitation, or taken any bribe or knowingly done any other act in his official capacity interdicted by the fundamental law."

He believed as he said that "the corruptions of the legislature are the fretting leprosy of the age we live in" and he favored heroic treatment of the disease.

It was a sore disappointment to him that his last proposition was not incorporated in the Constitution, for he believed that it would have interposed an effectual check to the power of the lobby.

For, as he suggested, unless a member "is a moral monster, he will not do a thing with the preconceived determination to swear that he has not done it." He urged also that no less should be required from a member of the legislature than is required from a private citizen charged with a private trust, who must swear when he assumes it faithfully to perform his duties, and also when he renders his account that it is true and correct.

The new Constitution, however, received his cordial support, and he omitted no occasion to test its merits when it was openly violated. He remorselessly pursued the paid agents of a great railroad corporation that attempted a gigantic raid upon the treasury of the State, for bribing members of the legislature; and he brought both lobbyist and member, briber and bribed, into the criminal dock, and

condign punishment was defeated only by an unaccountable interposition of executive pardon. The effect, however, was salutary, for the trials demonstrated in a manner quite convincing to those whose trade it was to deal in human honor, that our Constitution is not a nullity *

Judge Black's contributions to the magazine literature of the country, and his occasional addresses, place him in the front rank of American writers. They are equal, if not superior, to the "Letters of Junius" in refined and severe satire. They are unquestionably superior in elevation of thought, and the graces of composition. Besides they discuss questions of greater interest, and, therefore, they have a more permanent value. For these reasons the productions of Judge Black's pen must always occupy a conspicuous place in the literature of our country.

The production that first called attention to Judge Black's powers as a writer was his eulogy on the life and character of General Andrew Jackson. It was delivered as early as 1845. For acute analysis of character, and graceful panegyric it is simply admirable. A literary man said of it at that time "that the best biography or memoir of

General Jackson that ever was produced, was written by *one* Black from the backwoods of Pennsylvania."

His eulogy upon Chief Justice Gibson is a noble tribute to the genius of that great man, and does honor to the head and heart of Judge Black.

In his contribution on the "Great Field Fight" he lays bare, "naked to the eye" the prodigious frauds of the Erie Railway. Sheridan's terrific picture of the enormities of the East India Company, in the trial of Warren Hastings, is not superior to it, either in the matter described or the manner of its presentation.

His public letters addressed to Senator Wilson, of Massachusetts, reviewing an article of that gentleman on Edwin M. Stanton is a valuable contribution to the secret history of the inception of the rebellion. So also is his review of Charles Francis Adams' eulogy on Wm. H. Seward. In these performances perhaps more than in any other, does he display that keen satire which lends such a charm to his compositions.

His replies to ex-Senators Howe and Boutwell, on the third term question had the effect "to clear it from all controversy, past, present, and to come." It was thought by many at the time that he should have waited until after the Republican Convention had met, before entering the lists against the third-termers. If Gen. Grant had received the nomination his defeat, it was contended, would have been easily accomplished. This is the veriest partisan view of the question, and, therefore, could not have had any weight with Judge Black. It would have impaired the force of the time-honored custom for a party of such numerical strength as

*NOTE — It is a fact, worthy of note, that Judge Black served in this convention without pay, and was the only member who did so. The legislature had fixed the salary at \$1000.00 for each member. This act was subsequently repealed; a gross sum was appropriated for expenses of the convention, and the convention was authorized and directed to appropriate from this gross sum the salaries of members. This Judge Black held was a violation of the existing Constitution, under which the legislature had power to appropriate money. All other members received \$1500.00 salary, while Judge Black refused to accept anything, except in "in pursuance of a legal appropriation by the legislature," which he did not expect, and which has in fact never been made.

The portrayal of Judge Black's character would be incomplete did I fail to refer to his private virtues. Simplicity is always allied to true greatness, and this virtue he had in a high degree. He was simple in his habits, tastes and manners. His bearing, however, was dignified, but he possessed also a heartiness of manner that made all feel at ease in his presence. He delighted to mingle with the people, and those who knew him cherished for him the warmest affection. He entered so thoroughly into their sentiments and treated them with such cordiality that they instantly relaxed all restraint, and would soon be found engaged in the most free and animated conversation with him. All were alike welcome at his home, and he was unaffectedly hospitable. His conversational powers were extraordinary. I think as such he never had a superior. Possessing so many wonderful gifts it is hard to determine in which he excelled most. Those who knew him best will rank him highest as a talker. This is not to be wondered at, for in conversation we get so much nearer to the man; we are admitted as it were, into his confidence, and as conversation is without premeditation, we see the man as he really is. It is, therefore, not surprising that by many he should be admired most for his colloquial powers.

An ex-Senator of the United States, from the State of Maryland,* connected with the commission appointed to adjust the boundary line between the States of Maryland and Virginia, of which Judge Black was a member, told me that during the sessions of the commission it was the custom of Judge

Black every morning before the session began to introduce some topic of conversation. He would, he said, always be prepared with some striking incident, amusing anecdote, or rare personal reminiscence. His conversation was always so fresh, original, entertaining, and instructive that each morning they would assemble in anticipation of the expected treat, and that in all that time he never heard him repeat himself.

He was not, however, like Macaulay, Coleridge, or Mackintosh, all noted for their great conversational powers, who would monopolize the conversation to such a degree that it resembled too much a dissertation. Judge Black inspired others to talk. He did not overawe by a display of his vast powers; for pedantry was utterly foreign to him. He took pleasure in drawing out the views of others,

‘And gladly would he learn
and gladly teach.’

He possessed a memory that retained almost everything he ever knew, and he had an inexhaustible fund of anecdotes, out of the way recollections, rare incidents of men and events. He possessed besides a very happy vein of humor, and this would sparkle incessantly through his conversation. He was so fresh, original and unique, that you always parted with him delighted, improved and elevated. His thoughts were as pure as his life was blameless, and there never escaped from his lips a vulgar, profane, or indelicate expression.

Examples of his wit, humor, and anecdote could be multiplied almost indefinitely, but I will give you a single instance.

Several gentlemen one day were discussing in his presence, the beauty of flowers, with which all nature

*Hon. Wm. Pinkney White.

was then clothed. They wondered why it is that everybody loves flowers, that it mattered not how base the man he would not deny their beauty, nor own a dislike to them. To help them out of the philosophical difficulty one of them turned to Judge Black and asked him — “Why is it, Judge, that there is such a universal love of flowers?” The Judge answered promptly — “It is hereditary. It comes from the garden of Eden.”

Gems like these constantly fell from his ever teeming brain, and sparkled through the stream of his conversation.

If some Boswell would collect and publish his gems of thought, witticisms, pleasantries, humorous anecdotes, and reminiscences, now treasured by those who heard them, our literature would gain an accession as rare and delightful as any volume of which it now boasts.

Judge Black loved agricultural pursuits. To his mind the husbandman's toil was the noblest and best of human occupations.

His own beloved Brockie is situated in as fair a valley as ever met the gaze of man. “An unbroken garden of agriculture,” exclaimed a gentleman when first he saw it.* Standing upon the lawn on the north side of the house, we see before us in the distance the Conewago Hills, like huge battlements skirting the horizon. East and west, as far as the eye can reach, we are met by a succession of fertile fields, groves, orchards, comfortable dwellings, great Pennsylvania barns, busy mills, and in the midst set like a jewel our own beautiful town of York; whilst here and there, as the eye travels along, are seen the waters of

the Codorns as they glisten through open spaces of the trees that thickly line its borders.

When nature stands “all dressed in living green” this sublime scene is diversified by countless fields of waving grain, herds of cattle lazily grazing in rich pastures, or, as the night shades begin to fall, winding their way contentedly homewards, the cows lowing at intervals as they go to apprise the milk-maid of their coming. The plowman too is now seen on horse-back, seated side-wise, homeward bound cheerfully whistling because a good day's work is done, whilst to the ear comes the sound of horn and bell calling the farm-hands to their frugal meal.

Here dwell contentment, domestic happiness, and honest prosperity.— This glorious scene was Judge Black's never-ceasing delight. “It is a goodly land, it is a goodly land” he was wont to exclaim as his enraptured eyes swept over the beautiful landscape. To him it presented a sublime example of the goodness of God, and the blessings of our free institutions.

He was a devout Christian. The doctrines of the Savior of mankind received his fullest assent, and the sublime teachings of the Bible were to him a constant source of study and reflection. Its precepts were a lamp to his feet and a guide to his path.

His death was a fitting sequel to his well spent life. “My business in the other-world is well settled,” was the confident message he left behind as he sank to rest.

“Not to those chambers where the mighty rest,

Since their foundation came a nobler guest,
Nor e'er was to the bowers of bliss conveyed,
A purer spirit, or a fairer shade.”

I have now placed before you as

*Hon. S Teakle Wallis.

best I could in the short space allotted me, an outline of the services on which must rest Judge Black's claim to greatness. Tried by every test he was truly great. Great intellectually for he had "reached the heights and pinnacles of the human mind." Great in the services he rendered, for did he not devote his transcendent gifts to the cause of freedom? He was great in the noble character he left as a rich legacy to his countrymen.— By all the qualities which raise men to renown and mark them for fame he was great. To posterity, therefore, we can safely entrust the preservation of his fame. The friends of freedom will cherish his memory and decorate his grave with laurels. So long as our beneficent system of laws shall live its votaries will point to him as one of its brightest luminaries. So long as

constitutional liberty shall remain to bless mankind will his name be cherished as one of its greatest apostles.

Said he to a distinguished Senator of our State,* "When I am gone I want you to be able to say of me what Samuel said when he left the judgeship: "Whose ox have I taken? or whose ass have I taken? or whom have I offended? whom have I oppressed? or of whose hand have I received any bribe to blind mine eyes therewith? and I will restore it you. And they said thou hast not defrauded us, nor oppressed us, neither hast thou taken aught of any man's hand."

Rest well departed friend! for the universal verdict of your countrymen is that thou hast merited not only these, but all the praises bestowed on Samuel.

*Hon. James Gay Gordon.

